

REMARKS

Claims 1, 14, 18, 24, 29 and 56 have been amended. Claims 55 and 57 have been cancelled. A portion of claim 14 has been incorporated into claim 1, and claim 57 has been incorporated into claim 56. Claims 18, 24 and 29 have been amended to change their dependencies in view of the present amendments. Claim 55 has been amended to avoid duplicative claims in view of the present amendments. New claim 73 is supported by original claim 14. No new matter has been added. Claims 1-54, 56 and 58-73 are pending in this application.

Rejection under 35 U.S.C. § 112, 2nd paragraph

Claims 1-7, 25-28 and 56 were rejected under 35 U.S.C. § 112, 2nd paragraph as indefinite. With respect to claims 1-7 and 56, the Office Action asserts that these claims fail to set forth a composition or structure and only claim properties of tensile strength. With respect to claims 25-28, the Office Action asserts that these claims fail to set forth the composition or structure of an ion-sensitive polymer that would account for the claimed properties.

The rejection of claim 1-7 and 56 have been obviated by appropriate amendment. As amended, independent claims 1 and 56 recite that the wet wipe comprises a fabric sheet saturated with a wetting composition. Applicants submit that claims 1-7 and 56 fully meet the requirements of 35 U.S.C. § 112, 2nd paragraph, and request that this rejection be withdrawn.

The rejection of claims 25-28 is respectfully traversed. The reasoning set forth in the Office Action to support the indefiniteness rejection is that Komatsu et al. (U.S. Patent No. 5,312,883) teaches an ion-sensitive polymer made from the monomers recited in claim 25. Applicants respectfully point out that the disclosure of Komatsu et

al. is immaterial to this rejection under 35 U.S.C. § 112, 2nd paragraph. As noted in MPEP § 2173.04:

If the scope of the subject matter embraced by the claims is clear, and if applicants have not otherwise indicated that they intend the invention to be of a scope different from that defined in the claims, then the claims comply with 35 U.S.C. § 112, second paragraph. [MPEP § 2164.08(c)]

Original claim 14, from which claims 25-28 originally depended, was not included in the rejection as being indefinite. Since claims 25-28 further defined the subject matter of original claim 14, and since the scope of original claim 14 is not unclear, it is impossible for the scope of claims 25-28 to be held as unclear or indefinite. Accordingly, Applicants submit that claims 25-28 fully meet the requirements of 35 U.S.C. § 112, 2nd paragraph, and request that this rejection be withdrawn.

Rejection under 35 U.S.C. § 103

Rejection over Pomplun et al.

Claims 1-23, 32-50, 54-66 and 70-72 were rejected under 35 U.S.C. § 103(a) over Pomplun et al. (U.S. Patent No. 5,972,805). The Office Action asserts that Pomplun et al. discloses a wet wipe that contains an ion-sensitive binder and that is dispersible in water having a monovalent ion concentration less than 0.5 percent by weight (wt%). The Office Action admits that Pomplun et al. does not teach the properties of tensile strengths, opacity or cup crush as recited in the claims. However, the Office Action asserts either that the wet wipes of Pomplun et al. would inherently possess these properties or that the process of Pomplun et al. would obviously have provided these properties.

The rejection of the claims as obvious over Pomplun et al. is respectfully traversed. Independent claims 1, 32 and 56 each include the following properties of a wet wipe:

- a tensile strength of less than about 70 g/in after being soaked in water having a concentration of about 10 ppm of one or more multivalent ions for about one hour, and
- a tensile strength of less than about 60% of the in-use tensile strength (greater than about 100 g/in) after being soaked in water having a concentration of about 200 ppm of one or more multivalent ions for about one hour.

It is noted that the Office Action has not specifically asserted that either of these properties are disclosed, taught or suggested by Pomplun et al.. Moreover, in all of the rejections on the record, both in the present Office Action and in the Office Action mailed March 25, 2003 [Paper No. 8], there is no specific assertion that these properties are disclosed, taught or suggested.

Applicants respectfully point out that the Examiner has not yet provided the rationale or evidence required to support the assertion that the wet wipes of Pomplun et al. inherently possess the properties of tensile strengths, opacity or cup crush as recited in the claims. The only rationale provided in the Office Action to support this assertion of inherency is that Pomplun et al. discloses a wet wipe. However, as noted in MPEP § 2112, with reference to *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999):

“ ‘Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing **may result** from a given set of circumstances is **not sufficient**.’ ” [emphasis added]

Thus, in order for the burden of proof to shift to Applicants, evidence or reasoning must be placed on the record, and this evidence or reasoning must show that the claimed properties are necessarily present in the applied reference.

With respect to the assertion that the process of Pomplun et al. would obviously provide a wet wipe having the claimed properties, Applicants respectfully point out that the Office Action has not met any of the three basic requirements of a *prima facie* case of obviousness (see MPEP § 2143). The Office Action has not asserted (a) that there is a teaching or motivation to modify the wet wipes of Pomplun et al., (b) that there is a

reasonable expectation of success in modifying the wet wipes of Pomplun et al., or (c) that there is a teaching or suggestion of the claimed properties in Pomplun et al.. Even if Pomplun et al., alone or in combination with another reference, provided a teaching or suggestion of the claimed properties, it is noted in MPEP § 2143.01, that:

A statement that modifications of the prior art to meet the claimed invention would have been "well within the ordinary skill of the art at the time the claimed invention was made" because the references relied upon teach that all aspects of the claimed invention were individually known in the art is **not sufficient** to establish a *prima facie* case of obviousness without some **objective reason to combine** the teachings of the references. [bold emphasis added]

Thus, the conclusory statement that elements of the claims "would obviously have been provided" is insufficient to establish a *prima facie* case of obviousness.

Moreover, the assertions that the wet wipes of Pomplun et al. would inherently possess the claimed properties or that the process of Pomplun et al. would obviously have provided the claimed properties are contradicted by the disclosure of the reference. Pomplun et al. specifically states that the disclosed water soluble polymers are characterized as:

... soluble in soft to moderately hard water but will be insoluble in water having concentrations of divalent ions greater than about 50 ppm.
[col. 3, lines 23-25]

Fabrics containing these water soluble polymers as a binders will be thus dispersible in environments where the polymers are soluble, such as in water having a divalent ion concentration less than 50 ppm (see col. 3, lines 3-7 and 33-36). By extension, these same fabrics will not be dispersible in environments where the polymers are insoluble, such as in water having a divalent ion concentration greater than 50 ppm. Thus, Pomplun et al. does not teach or suggest wet wipes that will have a tensile strength less than about 60% of the in-use tensile strength after being soaked in water having a concentration of about 200 ppm of one or more multivalent ions for about one hour. Rather, the disclosure of the reference indicates that the wet wipes will remain non-

dispersible and will not exhibit a significant reduction in tensile strength when placed in water having a divalent ion concentration greater than 50 ppm.

The Pomplun et al. reference does not teach or suggest each and every element of independent claims 1, 32 and 56, nor has it been shown that the wet wipes disclosed in Pomplun et al. would inherently possess the properties recited in the claims. The disclosure of Pomplun et al. teaches away from the relationship between tensile strength and ion concentration as recited in the claims. Accordingly, a *prima facie* case of obviousness has not been made against pending claims 1-23, 32-50, 54, 56, 58-66 and 70-72, and Applicants respectfully request that this rejection be withdrawn.

Rejection over Pomplun et al. and Mumick et al.

Claim 24 was rejected under 35 U.S.C. § 103(a) over Pomplun et al. in view of Mumick et al. (U.S. Patent No. 6,277,768 B1). The Office Action asserts that Mumick et al. discloses a co-binder of poly(ethylene-vinyl acetate), and that the combination of this co-binder with the wet wipe of Pomplun et al. would provide the claimed invention.

The rejection of claim 24 is respectfully traversed, as Mumick et al. is not a proper reference under 35 U.S.C. § 103. Mumick et al. has an issue date later than the filing date of the present application. The present application and U.S. Patent. No. 6,277,768 B1 were, at the time the invention of the present application was made, commonly owned by Kimberly-Clark Worldwide, Inc. Accordingly, under 35 USC § 103(c), U.S. Pat. No. 6,277,768 B1 cannot be used, alone or in combination with other references, in a rejection under 35 U.S.C. § 103. Applicants respectfully request that this rejection be withdrawn.

Rejection over Pomplun et al. and Blieszner et al.

Claims 51-53 and 67-69 were rejected under 35 U.S.C. § 103(a) over Pomplun et al. in view of Blieszner et al. (U.S. Patent No. 5,648,083). The Office Action asserts that Blieszner et al. discloses a wetting composition for wet wipes that contains as much as

99.5% water, and that the combination of this wetting composition with the wet wipe of Pomplun et al. would provide the claimed invention.

The rejection of the claims under 35 U.S.C. § 103(a) over Pomplun et al. and Blieszner et al. is respectfully traversed. The applied references, alone or in combination, fail to provide each and every element of the claims. As shown above, Pomplun et al. does not teach or suggest each and every element of independent claims 32 and 56, from which claims 51-53 and 67-69 depend, at least with respect to the claimed tensile strength properties. Blieszner et al. does not teach or suggest, nor has the Office Action asserted that Blieszner et al. teaches or suggests, the claimed tensile strength properties. Accordingly, a *prima facie* case of obviousness has not yet been presented, as the combination of Pomplun et al. and Blieszner et al. does not teach or suggest each and every element of claims 51-53 and 67-69. Applicants respectfully request that this rejection be withdrawn.

Rejection over Pomplun et al., Blieszner et al. and Engekhart

Claims 29-31 were rejected under 35 U.S.C. § 103(a) over Pomplun et al. in view of Blieszner et al. and further in view of Engekhart (U.S. Patent Application Publication No. 2001/0053753 A1). The Office Action asserts that Engekhart discloses a fragrance solubilizer for personal cleaning compositions, and that the combination of a fragrance solubilizer with the wetting composition of Blieszner et al. and the wet wipe of Pomplun et al. would provide the claimed invention.

The rejection of the claims under 35 U.S.C. § 103(a) over Pomplun et al., Blieszner et al. and Engekhart is respectfully traversed. The applied references, alone or in combination, fail to provide each and every element of the claims. As shown above, Pomplun et al. does not teach or suggest each and every element of independent claim 1, from which claims 29-31 depend, at least with respect to the claimed tensile strength properties. Neither Blieszner et al. nor Engekhart teach or suggest, nor has the Office Action asserted that Blieszner et al. or Engekhart teach or suggest, the claimed tensile strength properties. Accordingly, the combination of

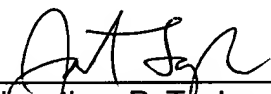
Pomplun et al., Blieszner et al. and Engelhart does not teach or suggest each and every element of claims 29-31, and a *prima facie* case of obviousness has not yet been presented. Applicants respectfully request that this rejection be withdrawn.

CONCLUSION

In conclusion, all of the grounds raised in the outstanding Office Action for rejecting the application are believed to be overcome or rendered moot based on the remarks above. Thus, it is respectfully submitted that all of the presently presented claims are in form for allowance, and such action is requested in due course. Should the Examiner feel a discussion would expedite the prosecution of this application, the Examiner is kindly invited to contact the undersigned.

Respectfully submitted,

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